RECENT CASES

CRIMINAL PROCEDURE—BURGLARY INDICTMENT—OWNERSHIP OF GOODS.—PEOPLE V. MENDELSON ET AL., 106 N. E. (ILL.) 249.—*Held,* that a defendant is not placed in double jeopardy by two successive indictments for burglary relating to the same breaking and entry, if the second indictment alleges a different ownership of the subject matter of the intended larceny.

This holding presupposes that the first indictment could not have been sustained by the evidence required to support the second. This position might be maintained on the theory that the allegation of ownership, while not essential, yet, if made, must be proved as alleged. *Conn. v. Moore,* 130 Mass. 45. This doctrine, however, is not generally accepted. *Reg. v. Clarke,* 1 C. & K. 421; *Harris v. State,* 61 Miss. 304. And the principal case is rested rather upon the ground that the allegation itself is indispensable. Widely different rules have been applied to this question. Generally it is sufficient to allege in terms of the governing statute, if the statute sets forth the facts constituting the intended crime. *McRae v. Commonwealth,* 20 Ky. Law Rep. 1199. Sometimes this is sufficient even though, in designating the intent, the statute does not proceed beyond conclusions of law. *State v. Powell,* 61 Kan. 81. Several authorities, in accord with the principal case, hold that the owner of the goods must be specified. *Barnhart v. State,* 154 Ind. 177, and authorities there cited. This has been deemed so essential that variance as to the nature of the interest of the alleged owners has been held fatal. *State v. Ellison,* 53 N. H. 325 (joint-tenancy alleged, severalty proved). Most courts, however, refuse to apply so rigorous a rule. *Lamater v. State,* 38 Tex. Crim. Rep. 249 (ownership laid in janitor of school house). By the weight of authority the allegation of ownership need not be made. *Reg. v. Clarke,* 1 C. & K. 421; *Brown v. State,* 72 Miss. 990; *Commonwealth v. Wicker,* 9 Ky. Law Rep. 474. And if made, it may be treated as surplusage. *State v. Simpson,* 32 Nev. 138. Failure to make it would merely prevent the finding of larceny under the burglary indictment. *Bowen v. State,* 106 Ala. 178. This conclusion is supported by the obvious practical impossibility which the contrary rule would often impose upon the pleader. *Jones v. State,* 18 Fla. 889. Accordingly it is usual to require a relatively slight degree of specification in the averment of purely mental ingredients of crimes. *State v. Newberry,* 26 Iowa 467 (assault with intent to commit murder); *State v. Hughes,* 76 Mo. 323 (attempt to commit larceny); *McKee v. State,* 111 Ind. 378 (conspiracy to defraud). The minority doctrine seems an extreme application of the rule that omissions in pleading shall be construed in a sense most unfavorable to the pleader.

DUE PROCESS OF LAW—FALSE IMPRISONMENT—JUVENILE DELINQUENTS.—WEBER V. DOUST ET AL., 143 PAC. (WASH.) 148.—Under a statute prescribing the procedure for bringing juvenile delinquents before the juvenile court, *held,* that an officer summarily arresting an alleged delinquent